

SENATE RESOLUTION 111  
By Ramsey

A RESOLUTION concerning the Senate District No. 29 election contest.

WHEREAS, on September 15, 2005, a special election was held in Shelby County to fill the vacancy in Senate District No. 29 created by the resignation of John N. Ford; and

WHEREAS, the preliminary and unofficial count of the Shelby County Election Commission indicated that Ophelia E. Ford received 4,333 votes and Terry Roland received 4,320 votes, a difference of only 13 votes; and

WHEREAS, on September 23, 2005, Mr. Roland filed a complaint to contest the election, alleging numerous irregularities occurred that call into question the accuracy and validity of the election results; and

WHEREAS, under the provisions of Article II, Section 11 of the Constitution of the State of Tennessee and Tennessee Code Annotated, Section 2-17-102, election contests for the office of state senator are decided by the senate, having sole and exclusive authority to judge the election of its members; and

WHEREAS, on September 26, 2005, the Shelby County Election Commission issued its official and certified tabulation of election results showing that Ophelia E. Ford received 4,333 votes; Terry Roland received 4,320 votes; Robert (Prince Mongo) Hodges received 89 votes; and Mitchell O. Thompson received 1 vote; and

WHEREAS, Speaker John S. Wilder appointed an election contest committee consisting of Speaker Pro Tem Michael R. Williams, Senator Ron Ramsey, Senator James F. Kyle, Senator Jeff Miller, Senator Joe M. Haynes, and Senator Roy Herron; and

WHEREAS, the committee conducted hearings in Legislative Plaza Room 12/14 on November 16, 2005; in the Supreme Court Room of the Shelby County Court House on

December 12, 2005; and in Legislative Plaza Room 12/14 on December 21, 2005; January 9, 2006; January 24, 2006; March 1, 2006; March 9, 2006; and March 13, 2006; and

WHEREAS, during the course of these hearings, the committee received extensive written and oral submissions from numerous individuals, including Brook K. Thompson, State Coordinator of Elections; Maclin P. Davis, Jr., Lang Wiseman, and Richard B. Fields, Counsel for Terry Roland; David J. Cocke, Counsel for Ophelia E. Ford; and Gregory M. Duckett, Chairman, Shelby County Election Commission; and

WHEREAS, at no time during the lengthy course of these hearings did the committee deny any person his or her opportunity or opportunities to be heard; and

WHEREAS, evidence presented to the committee clearly demonstrates that at least five (5) individuals (i.e., Robinson, Howard, Evans, Carr and Colucci), cast ballots in the election but were actually ineligible to vote due to prior felony convictions; and

WHEREAS, the evidence also clearly demonstrates that, as a result of administrative error by Shelby County election officials, one (1) individual (i.e., York), cast a ballot in the election after changing his address on election day using the fail safe process but was ineligible to vote in the election, having moved outside the boundaries of the district; and

WHEREAS, the evidence clearly demonstrates that, in Precinct 27-1, an unknown person or persons fraudulently cast a ballot in the September 15, 2005 special election using the name of Joe Lewis Light, who died on August 6, 2005, and

WHEREAS, the evidence clearly demonstrates that, in Precinct 27-1, an unknown person or persons fraudulently cast a ballot in the September 15, 2005 special election using the name of Archie L. Kirkwood, who died on August 30, 2005, and

WHEREAS, the evidence clearly demonstrates that, in Precinct 27-1, an unknown person or persons repeatedly forged the signature of an absent poll worker onto various official records and documents; and

WHEREAS, the evidence reveals that at least two (2) individuals (i.e., Ford and Catron), who voted in the special election, are registered to vote in the district based upon business addresses while maintaining separate places of residence outside the district; and the evidence further reveals that at least forty-two (42) additional illegal votes may have been cast by other

voters who also appear to have been domiciled outside of the district at the time of the election;  
and

WHEREAS, through mailed letters and published newspaper notices, each of the  
aforementioned forty-four (44) voters was notified that his or her vote in the special election had  
been challenged and each of the forty-four (44) voters was requested to verify, by affidavit  
provided, his or her address or addresses at the time of the election; and

WHEREAS, twenty (20) of the forty-four (44) voters either declined or failed to verify  
their address or addresses; and

WHEREAS, criminal investigations have been initiated and are ongoing with respect to  
the Senate District No. 29 special election; and

WHEREAS, serious irregularities of such gravity and pervasiveness cannot be tolerated,  
most especially in such a close election, and

WHEREAS, it is readily apparent that thirteen (13) or more votes were illegally cast in  
the special election; and

WHEREAS, there is a sufficient quantum of proof that fraud or illegality so permeated  
the conduct of the special election as to render the election and its results incurably uncertain  
and untrustworthy; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED FOURTH GENERAL  
ASSEMBLY OF THE STATE OF TENNESSEE, that this body, having the sole and exclusive  
authority to judge the election of its members pursuant to Article II, Section 11 of the  
Constitution of the State of Tennessee and Tennessee Code Annotated, Section 2-17-102,  
does hereby void the special election held on September 15, 2005, in Shelby County, to fill the  
vacancy in Senate District No. 29 created by the resignation of John N. Ford.

BE IT FURTHER RESOLVED, that the clerk of the senate shall promptly cause a copy  
of this resolution to be delivered to the Shelby County legislative body for appropriate action  
pursuant to Article II, Section 15(b) of the Constitution of the State of Tennessee.